

REMARKS

In the Office Action, the Examiner rejected claims 1-26 and 31-33 and allowed claims 27-30. By this paper, Applicants have amended claims 1, 5, 7, 16, 25, 26, and 31-33, and added new claims 34-39 for clarification of certain features and to expedite allowance of the present application. These amendments do not add any new matter. Support for the amendments can be found in the specification, for example, at page 1, lines 18-21; page 7, lines 29-31; page 8, line 16-18; and page 11, lines 1-29. Upon entry of these amendments, claims 1-39 will be pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 7, 9, 18-20 under U.S.C. § 102(b) as anticipated by Powers et al. (U.S. Patent No. 6,360,120), hereinafter "Powers". Applicants respectfully traverse this rejection.

Legal Precedent

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). Every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). The prior art reference must show the *identical* invention "*in as complete detail as contained in the ... claim*" to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Claim 7

Turning to the claims, the present independent claim 7, as amended, recites, *inter alia*, a “patient parameter cable comprising ... a memory device disposed in the adaptor, wherein *cable identification data* is stored on the memory device.” Conversely, the Powers reference teaches that “*patient data recorded by a defibrillator during treatment of a patient*” is stored in memory. *See* Abstract (emphasis added). Indeed, the Powers device *only* stores and transfers *patient ECG data*. *See* Powers, col. 2, lines 14-19 and 38-62. It does not store *cable identification data*, as required by independent claim 7. In view of this deficiency, the cited reference cannot anticipate independent claim 7 or its dependent claims.

Claim 18

Independent claim 18 recites, *inter alia*, a “patient parameter cable comprising ... a *memory support* disposed *on the cable*; and a memory device disposed in the memory support.” In contrast, Powers is absolutely devoid of a memory support. Moreover, as stated by the Examiner, the Powers memory 32 is “*in the adaptor* of a cable that connects to a defibrillator,” and not disposed on the cable. *See* Office Action, page 2 (emphasis added). Powers does *not* disclose a *memory support* disposed *on the cable*, or a memory device disposed in such a memory support disposed *on the cable*. *See* Powers, col. 2, lines 14-19. Accordingly, the cited reference cannot anticipate independent claim 18 or its dependent claims.

Request Withdrawal of Rejection

In view of the foregoing, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102, and allowance of the claims.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-6, 8, 10-17, 21-26, and 31-33 under 35 U.S.C. § 103(a) as obvious over Powers et al. Applicants respectfully traverse this rejection.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). To establish a *prima facie* case, the Examiner must not only show that a modified reference includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the reference. *See Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). The Examiner must provide objective evidence, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *See In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

Claim 1

Independent claim 1, as amended, recites, *inter alia*, “a patient monitoring station comprising an *operator workstation*.” Conversely, the cited reference discloses a patient monitor 24 inside of the defibrillator device. Clearly, such a monitor 24 cannot incorporate an operator workstation. *See* Fig. 1a. Moreover, the patient monitor 24 in the Powers reference is *not* interactive with the user at all. In operation, the Powers patient monitor 24 “monitors the patient for a heart rhythm and subsequently determines whether the monitored rhythm is shockable.” *See* Powers, col. 3, line 59 – col. 4, line 1. The “patient monitor 24 then communicates a shock decision to the controller 12.” Powers, col. 3, line 59 – col. 4, line 1. *See id.* To be sure, the Powers reference is absolutely devoid of a patient monitor comprising an operator workstation, as claimed. Accordingly, claim 1 and its dependent claims are believed to be patentable over the cited reference.

Claims 11, 12, 16, and 24

Independent claims 11, 12, 16, and 24 recite, *inter alia*, a “patient parameter cable comprising ... a *sensor adaptor* for connecting the cable to one or more sensors.”

Similarly, independent claim 24 recites, *inter alia*, “a sensor adaptor for connecting one or more sensors to the cable.” In contrast, as implicitly acknowledged by the Examiner, the Powers reference does *not* disclose a *sensor adaptor*. In an effort to cure this deficiency of Powers, the Examiner stated:

[I]t is obvious to use a sensor adaptor since they are common in the art, and allow for different types of sensors, such as differently sized electrodes, to be put on the cable. This ability allows for a greater range of treatment. Accordingly, to put the memory in the sensor adaptor, instead of the station adaptor, is considered to be well within the skill of the ordinary artisan.

Office Action, pages 2-3.

However, Applicants strongly traverse the Examiner’s contention that it would be obvious to modify the Powers device to incorporate a sensor adaptor. First, Applicants stress that the Examiner did *not* provide a scintilla of objective evidence that the skilled artisan would be motivated to modify the Powers defibrillator to incorporate a sensor adaptor. *See In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). Consequently, Applicants challenge the Examiner to produce objective evidence of such a hypothetical modification. Second, there is no apparent need to have a sensor adaptor in the Powers defibrillator. After all, Powers clearly discloses one wire 44 per electrode 42, as well as an extensive housing 40 that could accommodate multiple wires 44 and electrodes 42. Again, those skilled in the art would find no motivation in Powers or generally in the art to use a sensor adaptor at the interface of the electrode 42 and wire 44.

Claim 24

Independent claim 24 recites, *inter alia*, a “patient parameter cable comprising ... a *memory support* disposed *on* the cable; a memory device disposed in the memory support.” In contrast, as indicated above, the cited reference does not teach or suggest “a *memory support* disposed *on* the cable” with “a memory device disposed in the memory support.” In contrast, the Powers memory 32 is disposed *in an adaptor*, and not in a *memory support on the cable*. See, e.g., Powers, col. 2, lines 14-19. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness with regard to claim 24 and its dependent claims.

Claim 26

The present independent claim 26, as amended, recites, *inter alia*, a “patient parameter cable comprising ... means for storing *parameter-cable identification* information in the parameter cable.” Conversely, as mentioned, the Powers reference discloses storing *only* patient ECG data in the memory 32. See Powers, col. 2, lines 14-19 and 38-62. The Powers reference is absolutely devoid of storing any kind of cable identification or cable manufacture data at all. Accordingly, claim 26 is believed to be patentable over the cited reference.

Claim 31

Independent claim 31, as amended, recites, *inter alia*, a “computer program, provided on one or more tangible media, for monitoring a patient, comprising a routine for populating a memory device disposed in a parameter cable with equipment settings from a first monitoring station.” Conversely, the Powers device *only* stores and transfers *patient ECG data*. See Powers, col. 2, lines 14-19 and 38-62. It does *not* store *equipment settings*, such as alarm settings or calibration settings. Therefore, claim 31 and its dependent claims are believed to be patentable over the cited reference.

Request Withdrawal of Rejection

For these reasons, the Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103, and allowance of the claims.

Dependent Claims

The Examiner rejected dependent claims based on Powers under both § 102 and § 103. However, the dependent claims are patentable by virtue of their dependency on an allowable base claim. Further, the dependent claims are also patentable because of the subject matter they separately recite. For example, dependent claims 4 and 8 recite “wherein the memory device is a 1-wire memory chip.” In contrast, Powers is intentionally silent with regard to the specific configuration of the memory 32. *See* col. 4, lines 66 – col. 5, line 2. Further, such a 1-wire configuration of the memory 32 is neither inherent nor obvious in the extensive control scheme presented in Powers. *See, e.g.*, col. 4, lines 1-30. Clearly, Powers fails to teach or suggest a 1-wire configuration of its memory 32. For this additional reason, claims 4 and 8 are patentable over Powers.

Request Evidence to Support Official Notice

In an effort to cure the deficiencies of the Powers reference, the Examiner stated that “it is obvious to use a sensor adaptor since they are common in the art,” and that placing “memory in the sensor adaptor, instead of the station adaptor, is considered to be well within the skill of the ordinary artisan.” *See* Office Action, page 4. Essentially, the Examiner has taken Official Notice of facts outside of the record that the Examiner apparently believes are capable of demonstration as being “well-known” in the art. Further, Applicants emphasize that the “well-known” facts asserted by the Examiner are not of a “notorious character” and are clearly not “capable of such instant and unquestionable demonstration as to defy dispute.” *See* M.P.E.P. § 2144.03. Therefore, in accordance with M.P.E.P. § 2144.03, Applicants hereby seasonably traverse and challenge the Examiner’s use of Official Notice. Specifically, Applicants respectfully request that the Examiner produce evidence in support of the Examiner’s position as soon as practicable during

prosecution and that the Examiner add a reference to the rejection in the next Official Action if any. If the Examiner finds such a reference and applies it in combination with the presently cited references, the Applicants further request that the Examiner specifically identify the portion of the newly cited reference that discloses the allegedly “well known” elements of the instant claims, as discussed above, or withdraw the rejection.

New Claims


Applicants graciously acknowledge the Examiner’s allowance of method claims 27-30. By the present Response, Applicants added new method claims 34-39 having subject matter similar to certain features of allowed claims 27-30. Applicants respectfully note that the reference cited by the Examiner does not teach or suggest the storage of equipment settings or patient demographics in a memory device of a parameter cable, as presented in the new claims. Instead, the cited reference is directed solely to the storage of acquired analytical data. Applicants believe new claims 34-39 to be in condition for allowance.

Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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